

CITY COUNCIL MINUTES
August 25, 2008
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, August 25, 2008 at 6:00 p.m. with Mayor Keith Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER
PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Bob Snyder, Kevin Hanley, Bridget Powers, Keith Nesbitt

Council Members Absent: J. M. Holmes

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Associate Planner Lance Lowe, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris

**MAYOR'S COMMENDATIONS/PRCLAMATIONS/ACKNOWLEDGEMENTS/
ANNOUNCEMENTS**

None

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

1. **Warrants**

By **RESOLUTION 08-111** approve Warrants #69330 through 69345 and Warrants #68949 through 70421 totaling \$2,353,491.33.

2. **Minutes**

By **MOTION** approve City Council Minutes of July 28, 2008.

3. **Declare Surplus Property**

By **RESOLUTION 08-112** declare certain fire equipment as surplus and authorize the Fire Chief to dispose accordingly such surplus equipment.

4. **Agreement for Consulting Services – Code Enforcement Services Not to Exceed \$7,776**

By **RESOLUTION 08-113** authorize the Community Development Director to execute an agreement for consulting services between the City and Municipal Code Compliance to provide code enforcement services.

***** End of Consent Calendar*****

By **MOTION** approve the Consent Calendar. **MOTION: Snyder/Hanley/ Approved 4:0 (Absent Holmes)**

5. **Public Comment**

City Clerk Joe Labrie acknowledged the recertification of Deputy City Anne Cooley as a Certified Municipal Clerk.

PUBLIC HEARINIG

6. **Auburn Bluffs Subdivision Drainage Study**

Public Works Director/City Engineer Jack Warren introduced the item. He explained that the Council had previously requested that the drainage analysis and report be brought back to the Council in a public hearing. Mr. Warren said the report met all the conditions previously set forth by the Council. He explained that the developer hired Civil Solutions to provide the report. Mr. Warren stated that a meeting was held to address the concerns of residents in the area. He advised that there were only four people in attendance.

Marcus LoDuca, 3721 Douglas Blvd., Roseville, spoke on behalf of the proposed developer, California Trend Builders Group. He stated that the City Engineer, Jack Warren, determined that the plan satisfied the conditions of approval. He explained that Civil Solutions has tremendous expertise in the field and has been involved with Placer County Flood Control District since 1992. He outlined the firm's background and involvement in the area.

Tom Plumber, President of Civil Solutions, 1325 Howe Avenue, Suite 202, Sacramento, stated his firm was hired to provide the drainage report and

to evaluate the impacts of the proposed project. He explained that the housing project already has streets and a drainage system in place. He explained the drainage flow and the soil condition. He said the study was consistent with the Stormwater Manual requirements. He explained the recommended mitigation measures. Council questions followed regarding soil saturation level, hillside retention, flow increase after project completion, and the flow rate estimation process.

Marcus LoDuca stated that the issues of maintenance of the drainage system improvements have already been addressed by the Council in the conditions of approval, Condition 44A.

John Dunlap, 10905 Sunrise Ridge Circle, stated that he has been tracking the project throughout its process. He said he lives at the bottom of the Vintage Oaks development and was concerned about drainage issues. He said he spoke directly to the consultants at the meeting held by the City. He said he accepted what the experts told him and is satisfied with the information provided him. He asked that the City monitor the project to make certain that it is developed properly. He said the developer has earned his support.

Tim DeWitt, 11050 Sunrise Ridge Circle, asked for an explanation of the proposed system. He said he was unable to get that information at the meeting held by the City. He questioned the rationale that there is no additional runoff because it is an impervious site. He challenged the report that he said showed the project was engineered to a minimum standard. He questioned how the filtration system, Vortex Vault, will be maintained. He said it should not be the responsibility of the homeowners, who could be sued by neighbors, if the system malfunctions.

Mr. Warren said that the maintenance issue has been a concern since the inception of the project. He said that Condition 44A requires that the developer pays for the maintenance, but was not certain with whom the responsibility lies for actual repairs. He said it appears that it will be a Public Works obligation to be entered into the work plan. He said the attorneys will have to work out the payment plan and the details of the maintenance issue. He said normally the homeowners association maintains the equipment that is not in the public right-of-way.

Council Member Snyder asked what mechanism the City has to require payment for maintenance.

City Attorney Colantuono responded that the developer cannot build a structure in a City right-of-way without an encroachment permit. He said appropriate conditions can be placed on the encroachment permit. Mr.

Colantuono said that the City also has the right to withhold approval of the building permits until there is an acceptable program of public improvements that meets City standards. He stated that would include maintenance as well as design and installation. He said, if it is decided to make it a public responsibility, there are a variety of ways to fund it. He said permits would not be granted until the issue is resolved.

Mr. Warren advised that there is no preliminary design since there are no improvement plans as yet, only a drainage study and a hydrology report.

Tom Plumber explained that the soil type and the National Resource Conservation Service maps. He said the assumption of Type B soil is accurate over the entire project. Council questions followed.

Marcus LoDuca addressed the maintenance issue. He said the cost is the homeowners' responsibility as defined in Condition 44A. He said the homeowners must enter into an agreement. He said there is a level of enforcement that through the CC&R's, the City would have the right of enforcement if the architectural review committee failed. He said the CC&R's will go through the City for review as the project moves forward.

City Attorney Colantuono said that if something went amiss the Vintage Oaks residents would not have any recourse against the City. He said they would have recourse against the owners of the land uphill who have an obligation to reasonably manage water from their properties.

Council Member Hanley said he was satisfied that flow requirements will be met and with the methodology used in the study.

By **RESOLUTION 08-114** accept the drainage study as sufficient to comply with the Conditions of Approval 38, 40 and 44B. **MOTION: Hanley/Powers/Approved 4:0 (Absent Holmes)**

7. **Wastewater Treatment Plant Improvement Project – Initial Study and Mitigated Negative Declaration**

Public Works Director Jack Warren introduced the item continued from the July 14, 2008 City Council meeting. He said it was actually completed in October 2007 but was put aside due to the issues of the Regional Wastewater solution. He said no one appeared at the previous public hearing and he has not received any comments from the public.

By **RESOLUTION 08-115** adopt the Initial Study and Mitigated Negative Declaration for the Wastewater Treatment Plant Improvement Project. **MOTION: Hanley/Powers/Approved 4:0 (Absent Holmes)**

REPORTS

8. City Council Committee Reports

None

COUNCIL BUSINESS

9. Youth Advisory Commission Appointments

Mayor Nesbitt explained that Council Member Holmes recommended Jessica O'Neil (student), Nathan Whiteside (student) and Randy B. Tooker (Adult Youth Advocate) be appointed to the Youth Advisory Commission.

Council Member Powers said that Mr. Tooker is an asset to the community and that he would be a great addition to the Youth Advisory Commission.

By **RESOLUTION 08-116** appoint Jessica O'Neil, Nathan Whiteside and Randy Tooker to the Youth Advisory Commission.

MOTION: Powers/Snyder/Approved 4:0 (Absent Holmes)

10. Ordinance Establishing Standards for State-Licensed Video Providers – 1st Reading

City Attorney Michael Colantuono introduced the item. He explained that the Legislature adopted legislation that preempts local government franchises. He said companies will now obtain City rights-of-way to provide video services communication from the State. He said local government was left with three responsibilities with respect to State franchise video providers: (1) provide a procedure for the appeal of denial of an encroachment permits (2) regulation of customer service standards under the franchise and (3) may require the provider to provide support for Public Educational and Government access channels.

By **MOTION** introduce for first reading an ordinance to establish standards for state-licensed video providers pursuant to A.B. 2987 – The Digital Infrastructure and Video Competition Act of 2006. **MOTION:**

Hanley/Powers/ Approved 4:0 (Absent Holmes)

11. Auburn Placer Disposal Franchise Agreement and Blue Bag Recycling Program

Public Works Director Jack Warren explained that there were two separate issues under the item. He explained that one issue was for Council to allow the Public Works Department to enter into negotiations to extend the franchise agreement. He said the other issue was a recommendation to continue the Blue Bag Recycling Program.

Transit Analyst Megan Siren stated that the Blue Bag Program has been offered to City residents since 1996. She said the 2007-08 Grand Jury Report investigated the use of blue bags in the communities of Auburn and Lincoln and suggested termination of the program. Ms. Siren said one of the benefits of the program is that residents separate their own recyclables. She said that when blue bags are received at the Material Recovery Facility (MRF), their contents are clean and dry. Additionally, she advised that the program allows Auburn Placer Disposal Service (APDS) to utilize existing trucks and routes. She said the cost to a resident is \$.54 a month. She asked for direction from the Council since the City is required to respond to the Grand Jury Report.

Council questions followed regarding how much of blue bag contents are not recycled, the cost of the bags, and processing of recyclables at the MRF.

John Rowe, Auburn Placer Disposal, 12035 Shale Ridge Road, advised that the reason there is not an exact number for the blue bags is that it would be very difficult to compute. He said the blue bags are handled across the line and not necessarily separated from other refuse. He said to try to differentiate between Auburn, Loomis, Lincoln and Placer County blue bags would be a huge task. He said the blue bags do facilitate the process at the MRF. He said \$.54 a month is the least expensive way to recycle. He said his company actually loses money on the program, but he endorses it because it is a well-received community program.

Council Member Hanley said that it appeared to him that the Grand Jury only observed the initial recovery of the bags and not the secondary processing of the bags. He said he supported the program because it meets the 50% required by the State for waste diversion.

Mayor Nesbitt said that one of the main benefits of the program is that "it teaches." He said it teaches children to be sensitive to the environment.

Council Member Powers said that one of the most important facets of the Placer County Solid Waste Local Task Force is to educate the various communities to recycle. She said it is a way to become aware and educated at home.

By **MOTION** continue the Blue Bag Recycling Program. **MOTION:**
Snyder/Hanley/Approved 4:0 (Absent Holmes)

Public Works Director Warren stated there was a request from Auburn Placer Disposal Service (APDS) to consider an early renewal of its current contract, which does not expire until June 30, 2011. He said APDS is offering to enhance the service without any additional costs. Mr. Warren stated that Council can ask for a request for proposal from other waste management firms or have Public Works prepare a draft contract with APDS. He asked for Council direction.

John Rowe provided handouts with information about the company. He said the services that APDS provides are outlined, as well as company participation within the community. He said employee ownership in the company should be noted as a positive enhancement to the business. He said APDS was the Auburn Chamber Business of the Year in 2006. He said there was only one complaint in a year. He said a local office is beneficial to the community.

Council Member Snyder inquired about services such as the cardboard drop off point and the annual "spring cleaning."

Bill Kirby, 12501 Marcelais Court, spoke in support of APDS stating that the company has always provided superior service with Project Auburn. He said APDS has been of great service to the community.

Council Member Hanley questioned how long the extension period would be. Mr. Warren advised that was an item to be discussed.

John Rowe stated that APDS has asked for a ten-year contract from Placer County. He stated that the items APDS has proposed will be of no extra charge to the residents. He said the heart of the proposal is curbside U-waste program. He said APDS will be able to pick up TVs, electronics, florescent light tubes, batteries and types of items that should not be placed with ordinary garbage. He said it is a costly program for APDS, but they are not asking for an increase in rates for the additional service. He said once a year APDS asks the Council for a cost of living adjustment (COLA) increase. He said APDS is only asking for extra time. He explained that by offering new programs, profit margins will be decreased, but APDS will have ten years to absorb the costs of the new programs. He said that although fuel costs have dramatically increased, APDS has not asked for an increase in rates.

John Rowe said APDS has had the contract for about 25 years. He said a typical extension varies from 5 to 20 years. He said APDS, after calculation of its programs, feels that about a 10-year period is needed.

He said in February 2009, when many old televisions will be inoperable due to the Federal mandate, APDS would like to have the program in place to pick them up curbside.

Curt Smith, 200 Pacific Avenue, asked if the new services would include the disposal of sharps containers. He explained they are for the use of diabetics in the community. Mr. Rowe stated that APDS is offering free disposal at the transfer station. He said curbside pick up is not being offered at this time because it is a major concern for employees.

Council Member Hanley said, since the contract is due to expire June 30, 2011, he felt it worthwhile to do a thorough review of how we purchase garbage collection services in the City. He said he did not want to rush to a decision. He said it was the Council's obligation to (1) have a bidding process and (2) use a competitive contracting process and explore a joint powers agreement with other jurisdictions. He said companies that compete with one another offer creative ideas. He said he felt it was premature to enter into negotiations on the franchise.

Council Member Powers asked if there is a bidding process when the contract comes due. Mr. Warren answered, "That is precisely what the issue is tonight." He said the Council has a choice to negotiate an extension with APDS or solicit competitive proposals from all interested companies. Mr. Warren said a rate study was not done. He said Public Works was awaiting Council direction before getting into detailed work.

City Manager Richardson said a rate study could easily be provided to the Council. He did advise that rate comparisons are difficult because services are frequently tailored toward the individual needs of each city. He said what staff was seeking was general direction from the Council. He said with franchises that have a lot of cost built up, rates tend to be better because costs are spread over a long period of time.

Mr. Rowe provided a price comparison to the Council. He asked the Council to note that garbage is handled twice in the current situation from the transfer station to the MRF. He said Auburn's disposal costs are higher than most other entities, but below average rates are maintained for the residents. He said APDS does own the transfer station. He said APDS does pay a reasonable wage and provides health insurance to his employees. He advised that in the bid process labor will be "squeezed." He said state of the art equipment, utilized by APDS, will be lessened with the bid process.

Council Member Snyder stated that he needed more time to study the issue before he could give direction to staff. He said it needs a thorough review before directing staff to negotiate for ten more years.

By **MOTION** direct staff to invite bids to provide collection services in the City and to also explore a competitive contracting model in a JPA arrangement with other local jurisdictions. **MOTION: Hanley/Snyder**

Council Member Snyder said he would second the motion, but asked for more information. Council Member Hanley responded that only in a competitive process would more information be available. He said that the Council may end up with a franchise agreement; but, since a decision does not have to be made immediately, it would make sense to get more information through a bid process.

Mayor Nesbitt asked if the information could be gathered with a continuance rather than initiating a bid process. Council Member Hanley stated that he did know how the information could be obtained without a bid process.

City Attorney Colantuono stated that he has seen such negotiations handled in three ways: (1) direct negotiation by staff (2) request for proposals (RFP) process and (3) consultant services to help negotiate with the current provider or the selected firm from the RFP process.

Council Member Powers stated that she thought Council Member Snyder was proposing suggestion number 3. She said APDS has been good to the community for many years. She said she would like to give APDS the opportunity to demonstrate that it is the best choice for Auburn before initiating an RFP. She said she would like to postpone a decision regarding an RFP.

City Manager Richardson said that part of Council Member Hanley's motion was to research a more regionalized JPA. Mr. Richardson said because all the entities are on staggered franchise terms, coordination will have to be over a longer period of time. Council Member Snyder said the City of Auburn's bid process would amount to only a small portion of a proposed JPA. Mr. Snyder said one of the intermediate steps would be to try to join with all the local entities prior to initiating a bid process. He said a consultant could also be utilized to look at what the City currently has in relationship to a regional agreement. He suggested that it could be a joint project with the neighboring entities.

Mayor Nesbitt said, "I just look at the RFP process as a process that would be futile in trying to quantify things in our relationship that I would find unquantifiable; so, I will not support that, but I will support an extension while we study what the next step is."

By **AMENDED MOTION** direct staff to explore with partners in our region whether we can develop a system to get the lowest price and the best quality of service for garbage collection. **MOTION: Hanley/Snyder/**
Approved 3:1 (No Nesbitt, Absent Holmes)

ADJOURNMENT

Mayor Nesbitt, without objection, adjourned the meeting at 8:03 p.m.

Keith Nesbitt, Mayor

Joseph G. R. Labrie, City Clerk